



Department of Justice

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NEW YORK FOOD COMPANY EXECUTIVE ARRESTED **ON MILLION-DOLLAR FRAUD CHARGE**

WASHINGTON, D.C. -- A New York City food company executive has been charged with participating in a conspiracy to defraud one of his customers of more than \$1 million in connection with an embezzlement and kickback scheme, the Department of Justice announced today.

Melvyn Merberg, of Manhattan, was arrested at his home today by FBI agents. Until recently, Merberg was the chief executive officer of Jitney Ltd., a supplier of food headquartered in Queens, New York.

The one-count criminal complaint arose from an ongoing federal antitrust investigation of bid rigging, bribery, fraud, and tax-related offenses in the food distribution industry.

"Today's charge is the latest in the Antitrust Division's crackdown on anticompetitive practices in the food industry," said Joel I. Klein, Assistant Attorney General in charge of the Department's Antitrust Division.

The criminal complaint against Merberg, filed in U.S. District Court in Manhattan, charges him with conspiring to defraud Odyssey House Inc., a not-for-profit substance abuse treatment organization located in Manhattan, by embezzling approximately \$900,000 through fraudulent billing and by paying approximately \$200,000 in kickbacks to the former director of operations at Odyssey House Inc.

On July 13, Jitney was charged with rigging bids for \$2.4 million in food delivery contracts for New York City hospitals and jails, the Newark Public Schools and Nassau County agencies. At the same time, Jitney and Merberg's wife, Pamela Merberg, were also charged with conspiring to defraud customers and evade income taxes.

On June 1, 22 individuals and 13 food companies were charged with rigging bids for the supply and delivery of more than \$210 million of food to the New York City Board of Education. Some of those defendants were also charged with participating in bid-rigging conspiracies victimizing the New York City hospitals and jails, the Newark Public Schools, and the Nassau County Department of General Services. Among those charged was Michael Beberman, a Jitney salesperson, who has since pleaded guilty to bid rigging and tax charges. In addition, in September 1999, Aaron Lugo, the former director of operations at Odyssey House, pleaded guilty to bid rigging, fraud, and tax charges.

The charge against Merberg, a violation of 18 U.S.C. § 371, carries a maximum penalty of five years imprisonment and a \$250,000 fine. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victim of the crime, if either of those amounts is greater than the statutory maximum fine. The court will determine the appropriate sentences under the U.S. Sentencing Guidelines.

In addition, Merberg could, on conviction, be ordered to pay restitution to any victim for the full amount of that victim's loss.

The ongoing investigation is being conducted by the Antitrust Division's New York Field Office, with the assistance of the Federal Bureau of Investigation and the Internal Revenue Service Criminal Investigation Division.

Anyone with information concerning bid rigging, bribery, tax offenses, or fraud in the food distribution industry or concerning bid rigging on any government contract should contact the New York Field Office of the Antitrust Division at (212) 264-0677 or the New York Division of the FBI at (212) 384-3252.

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